

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TORRENCE LEWIS,

Petitioner,

v.

CALVIN JOHNSON, *et al.*,

Respondents.

Case No. 2:21-cv-01971-RFB-VCF

ORDER

This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Torrence Lewis, an individual incarcerated at Nevada's High Desert State Prison. On October 27, 2021, the Court received from Lewis, for filing, a pro se Petition for Writ of Habeas Corpus (ECF Nos. 1-1, 1-2), a Motion for Appointment of Counsel (ECF No. 1-3), and an Application to Proceed in Forma Pauperis (ECF No. 1).

Lewis's in forma pauperis application is incomplete, in that it does not include the required financial certificate. See LSR 1-2. The Court will, therefore, deny the Application to Proceed in Forma Pauperis and will require Lewis to pay the filing fee or file a new, complete in forma pauperis application. The requirement that Lewis must pay the filing fee or file a new in forma pauperis application will be suspended, however, until after counsel appears for Lewis.

Prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances indicate that appointed counsel is necessary to prevent due process violations. Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing Kreiling v. Field, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam). The court may, however, appoint counsel at any stage of the proceedings if the interests of justice so require. See 18 U.S.C. § 3006A; see also Rule 8(c), Rules Governing § 2254 Cases; Chaney, 801 F.2d at 1196. Lewis's filings indicate that he will not be

1 able to litigate this action pro se. The Court finds that appointment of counsel is in the interests of
2 justice. The Court will grant Lewis's Motion for Appointment of Counsel (ECF No. 1-3).

3 The Court has examined Lewis's habeas petition, pursuant to Rule 4 of the Rules
4 Governing Section 2254 Cases in the United States District Courts and determines that it merits
5 service upon the respondents. The Court will order the petition served upon the respondents, and
6 will direct the respondents to appear, but will not require any further action on the part of the
7 respondents at this time.

8 **IT IS THEREFORE ORDERED** that the Clerk of the Court shall separately file the
9 Petition for Writ of Habeas Corpus (ECF Nos. 1-1, 1-2), and the Motion for Appointment of
10 Counsel (ECF No. 1-3).

11 **IT IS FURTHER ORDERED** that the Application to Proceed *in Forma Pauperis* (ECF
12 No. 1) is **DENIED**, without prejudice. The Court will set a deadline for Petitioner to pay the filing
13 fee or file a new, complete in forma pauperis application after counsel appears for Petitioner.

14 **IT IS FURTHER ORDERED** that Petitioner's Motion for Appointment of Counsel (ECF
15 No. 1-3) is **GRANTED**. The Federal Public Defender for the District of Nevada (FPD) is
16 appointed to represent the petitioner. If the FPD is unable to represent the petitioner, because of a
17 conflict of interest or for any other reason, alternate counsel will be appointed. In either case,
18 counsel will represent the petitioner in all federal court proceedings relating to this matter, unless
19 allowed to withdraw.

20 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to electronically
21 serve upon the FPD a copy of this order, together with a copy of the Petition for Writ of Habeas
22 Corpus (ECF Nos. 1-1, 1-2).

23 **IT IS FURTHER ORDERED** that the FPD will have 30 days from the date of this order
24 to file a notice of appearance or to indicate to the Court its inability to represent the petitioner in
25 this case.

26 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to add Aaron Ford,
27 Attorney General of the State of Nevada, as counsel for Respondents and to provide Respondents
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1 an electronic copy of all items previously filed in this case by regenerating the Notice of Electronic
2 Filing to the office of the Attorney General only.

3 **IT IS FURTHER ORDERED** that the respondents will have 30 days from the date of this
4 order to appear in this action. Respondents will not be required to respond to the habeas petition
5 at this time.

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7 DATED THIS 28 day of October, 2021.

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RICHARD F. BOULWARE, II,
UNITED STATES DISTRICT JUDGE
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